Appendix Follows

APPENDIX

There are set forth below the portions of Chapter 1, Title 52, Ariz. R. S. 1913, and Article 4, Chapter 60, Ariz. Code 1928, in parallel columns. We have italicized the changes in the latter statute from the earlier statute. These changes, while not extensive insofar as the number of words is concerned, are not mere revisions of language, but definitely change the character of the bonds from general state obligations to county obligation bonds, in order that said bonds can be issued to refund county and municipal obligations without violating Section 5 of Article IX of the State Constitution, which is also set forth below.

The provisions of Article 4, Chapter 10, Ariz. Code, 1939, are identical with the provisions of Article 4, Chapter 60, R. S. of 1928, below set forth.

1913 R. S.
Title 52, Chapter 1.

5251. For the purpose of liquidating and providing for the payment of the outstanding and existing indebtedness of the State of Arizona, or of the Territory of Arizona assumed by the State of Arizona, and such future indebtedness as may be or is now authorized by law, the governor of the said state, together with the state auditor and state treasurer, and their successors in office shall constitute a board of commissioners, to be styled the Loan Commissioners of the State of Arizona, and shall have and exercise the powers and perform the duties hereinafter provided.

5252. It shall be and is hereby declared the duty of the said loan commissioners to provide for the

1928 R. C.
Article 4, Chapter 60.

Sec. 2646. Loan commissioners; issuance of state bonds; tax exempt. The governor, the state auditor and state treasurer, shall constitute the loan commissioners of the State of Arizona. They shall provide for the payment of the state indebtedness due, and to become due, now existing, or hereafter authorized; and for the purpose of paying, redeeming, and refunding all or any part of the principal and interest of the same, from time to time, issue negotiable coupon bonds of the state when they can be issued at a lower rate of interest than previously paid or when to the profit and benefit of the state. Bonds issued under the provisions of this article shall not be taxed within this state.

payment of the existing state indebtedness due, and to become due, or that is now, or that may hereafter be authorized by law; and for the purpose of paying, redeeming, and refunding all or any part of the principal and interest of the existing and subsisting state legal indebtedness, and also that which may at any time become due, or is now or may hereafter be authorized by law, the said commissioners shall, from time to time, issue negotiable coupon bonds of this state when the same can be issued at a lower rate of interest than previously paid on state indebtedness and to the profit and benefit of the state.

5253. Said bonds shall be issued as nearly as practicable in denominations of one thousand dollars, but bonds of a lower denomination, of not less than one hundred dollars may be issued when necessary. Said bonds shall bear interest at a rate to be fixed by said loan commissioners but in no case to exceed five per centum per annum, which interest shall be paid in gold coin or its equivalent in lawful money of the United States, on the 15th day of January and July in each year, at the office of the state treasurer or some bank or trust company in the City of New York at the option of the purchaser of said bonds and place of payment being mentioned in said bonds. The principal of said bonds shall be made payable in lawful money of the United States within twenty-five years after date of their issue. The state reserves the right to redeem at par any of said bonds in their numerical order at

Sec. 2647. Issuance of bonds; terms. Said bonds shall be issued as nearly as practicable in denominations of one thousand dollars, nor less than one hundred dollars, when necessary; bear interest at a rate to be fixed by the commissioners not exceeding five per centum per annum, payable on the fifteenth day of January and July in each year, at the office of the state treasurer or at some bank or trust company in the city of New York, state of New York, at the option of the purchaser of the bonds; the principal shall be payable within twenty-five years after the date of their issue, reserving the right to redeem at par any bonds in their numerical order at any time after fifteen years from the date thereof. They shall bear the date of their issue, state where, and to whom payable, rate of interest, shall be signed by said loan commissioners, have the seal of the state affixed thereto, countersigned

any time after fifteen years after the date thereof. They shall bear the date of their issue; state when, where, and to whom payable; rate of interest, and when and where such interest is payable; shall be signed by said loan commissioners; shall have the seal of the state affixed thereto; shall be countersigned by the state treasurer and bear his official seal, and shall be registered by the state auditor in a book to be kept by him for that purpose, which record shall show amount sold for, or if exchanged, for what exchanged; and the faith and credit of the state is hereby pledged for the payment of said bonds and the interest accruing thereon as herein provided.

5259. There shall be levied annually upon the taxable property in this state, and in addition to the levy for other authorized taxes, a sufficient sum to pay the interest on all bonds issued and disposed of hereunder, to be placed in the state treasury, in the fund to be known as the "Interest Fund". And each year after such bonds shall have been issued such additional amount shall be levied annually as will pay four per cent of the total amount issued until all the bonds issued hereunder are paid and discharged.

The state board of equalization, or, on their failure, the state auditor, shall determine the rate of tax to be levied in the different counties in the state to carry out the provisions of this section, and shall certify the same to the board of supervisors in each county and to the municipal or school authorities; and the said board of super-

Sec. 2652. Tax levy for amortization; application of fund; duty of officers; penalty. There shall be levied annually upon the taxable property in this state, in addition to other levies, a sufficient sum to pay the interest on all bonds issued hereunder, to be placed in the state treasury in the interest fund. Each year after such bonds have been issued, such an additional amount shall be levied annually as will pay four per cent of the total amount issued, until all the bonds are paid and discharged, and the same shall be placed in the state redemption fund as collected. The state board of equalization, or, in its failure, the state auditor, shall determine the rate of tax to be levied for such purpose, in the different counties in the state, and certify the same to the board of supervisors and taxing body in each county; and the said board of supervisors or

visors, or authorities, are hereby directed and required to enter such rate on their assessment rolls in the same manner and with the same effect as is provided by law in relation to other state, county, municipal and school taxes. Every tax levied under the provisions or authority of this section shall be a lien against the property assessed.

All moneys derived from taxes authorized by this section shall be paid into the state treasury, and shall be applied:

First. To the payment of the interest on the bonds issued hereunder.

Second. To the payment of the principal of such bonds;

Provided, that all moneys remaining in the interest fund after the payment of the interest and all moneys remaining in the "redemption fund" after all of said bonds shall have been paid and discharged, shall be transferred by the state treasurer to the state "general fund".

taxing body shall enter such rate on their assessment rolls as other taxes. If any county or taxing body is or becomes delinquent in the payment of such taxes, the board of supervisors or taxing body shall, before the next levy, prorate such delinquencies and make such additional levy, in addition to the current annual rate certified to them by the board of equalization or the auditor, as may be necessary, to pay the interest and principal of such bonds on maturity. The state board of equalization may reconvene the board of supervisors or any taxing body for the purpose of entering such rate or additional rate or levy or additional levy, as said board or auditor may certify. The county or municipal treasurer shall, on or before the first day of June of each year, pay to the state treasurer the total amount so certified to the board of supervisors, or taxing body, whether the whole amount has been collected from the levy of taxes therefor or not.

The money derived from such taxes shall be paid into the state treasury, and shall be applied; first, to the payment of the interest on the bonds issued hereunder; second, to the payment of the principal of such bonds, *and whenever sufficient bonds accrue to the credit of the state, the loan commissioner may direct the state treasurer to call such bonds for payment, if same be optional. Any interest earned by moneys in such redemption fund, shall be credited to the state, county, district or municipality in proportion to the amount paid into the fund by the state, or such county, district or municipality. Any money remain-*

ing in the interest fund, after the payment of interest, and any money remaining in the redemption fund, after all of said bonds have been paid and discharged, shall be returned by the treasurer to the county, district or municipality whence it came.

If the board of supervisors, or any taxing body, refuse, or omit, to enter and levy such rate of tax, as certified to them by said board, or auditor; or refuse, or omit to do or cause to be done any act herein required, they shall be guilty of non-feasance in office and individually liable on their bonds for the total amount so omitted, and the attorney general upon being informed of such refusal, shall bring action therefor against such officials and their bonds.

5260. * * * The boards of supervisors of the counties, the municipal and school authorities, are hereby authorized and directed to report to the loan commissioners of the state their bonded and outstanding indebtedness, and said commissioners may, on written demand, require an official report from the board of supervisors of counties, the municipal or school authorities, of their bonded and outstanding indebtedness, and said loan commissioners shall provide for the redeeming or refunding of the county, municipal and school district indebtedness, upon the official demand of said authorities, in the same manner as other state indebtedness, and they shall issue bonds for any indebtedness now allowed, or that may be hereafter allowed by law, to said county, municipality or school district up-

Sec. 2654. County or municipal bonds by state loan commissioners. The boards of supervisors of the counties and the municipal and school authorities, shall report to the state loan commissioners the bonded and outstanding indebtedness of the county, municipality or school district, and, upon the demand of said authorities, the commissioners shall provide for the redeeming or refunding of such indebtedness in the same manner as other state indebtedness, and issue bonds of the state for any indebtedness allowed by law to be incurred by such county, municipality or school district. *Such bonds shall be issued upon the faith and credit of the state only to the extent that it will cause to be levied and collected taxes for the payment of the principal and interest of such bonds, and pay the same*

on official demand by said authorities. The county, municipality, or school district shall pay into the state treasury, in addition to all other taxes authorized by law, such amounts as may be directed by the state board of equalization, or on their failure by the state auditor, to be levied for the payment of the principal of such bonds issued in redemption, or refunding, or of other bonds issued to such county, municipality, or school district, as herein provided, in the same manner as is herein provided for the payment of the principal and interest of state indebtedness, and, in addtiion, the interest paid by the state on such bonds.

when such bonds have been issued. The county, municipality, or school district shall pay into the state treasury, in addition to all other taxes authorized by law, such amounts as may be directed by the state board of equalization, or on their failure by the state auditor, to be levied for the payment of the principal and interest of such bonds issued for such county, municipality, or school district, in the same manner as is herein provided for the payment of the principal and interest of state indebtedness.

ARIZONA CONSTITUTION

Section 5, Article IX

The State may contract debts to supply the casual deficits or failures in revenues, or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more laws, or at different periods of time, shall never exceed the sum of three hundred fifty thousand dlolars; and the money arising from the creation of such debts shall be applied to the purpose for which it was obtained or to repay the debts so contracted, and to no other purpose.

In addition to the above limited power to contract debts the State may borrow money to repel invasion, suppress insurrection, or defend the State in time of war; but the money thus raised shall be applied exclusively to the object for which the loan shall have been authorized or to the payment of the debt thereby created. No money shall be paid out of the State treasury, except in the manner provided by law.

First Ratification Act

CHAPTER 54

(House Bill No. 65)

AN ACT

Ratifying, Approving and Validating the Highway Construction and Improvement Bonds of Maricopa County, in the Sum of Four Million ($4,000,000.00) Dollars, and the Sale Thereof, Which Bonds Were Authorized to be Issued and Sold by the Board of Supervisors of said County, at an Election by the Property Tax Payers of Said County Held May 17th, 1919, With an Emergency Clause.

WHEREAS, at an election by the property tax payers of Maricopa County, Arizona, held May 17th, 1919, under the provisions of an Act of the Legislature of Arizona entitled, "an Act providing for the creation of County Highway Commissions and prescribing the powers and duties of such commissions," approved March 8, 1917, and Acts amendatory thereof and supplemntal thereto, the Board of Supervisors of said county was authorized and empowered to issue and sell the bonds of said county in the sum of Four Million ($4,000,000.00) Dollars for the purpose of providing funds for the construction and improvement of certain portions of the public highways of said county; and

WHEREAS, pursuant thereto, the Board of Supervisors of Maricopa County, Arizona, did on the 9th day of July, 1919, enter into a contract of sale of said bonds with the following named persons, partnerships and corporations, to-wit:

Bolger, Mosser & Willaman, by T. J. Grace, Agent,

Elston and Company, by B. K. Blanchet, Agent,

C. W. McNear and Company, by B. K. Blanchet, Agent,

Whitaker and Company, by B. K. Blanchet, Agent,

Mississippi Valley Trust Company, by B. K. Blanchet, Agent,

Sidney Spitzer and Company, by B. K. Blanchet, Agent,

Stacy and Braun, by B. K. Blanchet, Agent,

Terry Briggs and Company, by B. K. Blanchet, Agent,

Prudden and Company, by B. K. Blanchet, Agent,

A. T. Bell and Company, by B. K. Blanchet, Agent,

Bosworth, Chanute and Company, by B. K. Blanchet, Agent.

Graves, Blanchet and Thornburgh, by B. K. Blanchet, Agent, (hereinafter designated as Graves, Blanchet and Thornburgh and associates) by virtue of which contract, the said Board of Supervisors did thereafter deposit said bonds with the Central Trust Company of Chicago, Illinois, to be delivered by it to the said Graves, Blanchet and Thornburgh and associates, upon the payment thereof by them, according to the terms of said contract; and

WHEREAS, the said Graves, Blanchet and Thornburgh and associates have, under the terms of said contract, taken a proportionate part of said bonds and have paid therefor One Million ($1,000,000.00) Dollars pursuant to the provisions of said contract of sale, which said sum of One Million ($1,000,000.00) Dollars is now being expended by the Maricopa County

Highway Commission in the construction of such public highways; and

WHEREAS, the validity of said bonds and the contract of sale thereof by the board of supervisors of Maricopa County, Arizona, has been and is now questioned and disputed by reason of certain alleged irregularities in the issuance and sale thereof as aforesaid, and litigation in respect thereto is now pending in the courts of the State of Illinois;

NOW, THEREFORE, BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ARIZONA:

Section 1. That the bonds of the County of Maricopa in the sum of Four Million ($4,000,000.00) Dollars, authorized by the election by the property tax payers of said county held May 17th, 1919, for the purpose of providing funds for the construction and improvement of certain portions of the public highways of Maricopa County, and the contract for the sale of such bonds entered into by the Board of Supervisors of said Maricopa County with Graves, Blanchet and Thornburgh and associates on the 9th day of July, 1919, are hereby ratified, approved and declared valid.

Section 2. All acts and parts of act in conflict with the provisions of this act, are hereby repealed.

Section 3. Whereas, it is necessary for the preservation of the public peace and safety, and to prevent a great financial loss to Maricopa County through delay in the construction and improvement of its public highways, an emergency is hereby declared to exist, and this act shall be in full force and effect from and after its passage and approval by the Governor, and this act is hereby exempted from the operation of the

REFERENDUM PROVISIONS of the State Constitution.

Approved March 7th, 1921.

Second Ratification Act

Chapter 86
(Senate Bill No. 160)

AN ACT

Ratifying, Approving and Validating the Highway Construction and Improvement Bonds of Maricopa County, in the Sum of Four Million Five Hundred Thousand ($4,500,000.00) Dollars, Authorized to be Issued and Sold by the Board of Supervisors of Said County at an Election by the Property Tax Payers of Said County Held December 31st, 1920.

WHEREAS, at an election by the property tax payers of Maricopa County, Arizona, held December 31st, 1920, the Board of Supervisors of said County were authorized and empowered to issue and sell the bonds of said county to the amount of Four Million Five Hundred Thousand ($4,500,000.00) Dollars, for the purpose of providing funds for the construction and improvement of certain public highways of said county; and

WHEREAS, the right and power of the Board of Supervisors of said county to issue and sell bonds, and the validity of said bonds when so issued and sold by the Board of Supervisors of said county has been and is now questioned and disputed:

NOW, THEREFORE, BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ARIZONA:

Section 1. That the election by the property tax payers of Maricopa County, Arizona, held December 31st, 1920, by and through which the Board of Supervisors of Maricopa County were authorized and empowered to issue and sell the bonds of said county to the amount of Four Million Five Hundred Thousand ($4,500,000.00) Dollars, for the purpose of providing funds for the construction and improvement of certain of the public highways of said county, was a valid election and conferred upon the Board of Supervisors of said county the power and authority to issue and sell said bonds, and that said bonds when issued and sold by said Board of Supervisors are hereby declared to be free from any defect or invalidity by reason of any act or omission by said Board of Supervisors, in calling and holding said election or preparatory thereto.

Approved March 14th, 1921.